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ESSEX COUNTY PROSECUTOR'S OFFICE CONCLUDES THAT USE OF DEADLY FORCE WAS JUSTIFIED IN MAY 1, 2018 POLICE SHOOTING IN NEWARK

The Essex County Prosecutor's Office ("ECPO") has completed its investigation into the May 1, 2018 use of deadly force by a Newark Police Officer ("Officer 1") and has concluded that the use of force was legally justified. ECPO determined that it is not necessary to present this matter to the Grand Jury because there were no material facts in dispute regarding the lawfulness of the use of force. The investigation was conducted in accordance with the Attorney General's Independent Prosecutor Directive (July 28, 2015 Supplemental Law Enforcement Directive Regarding Uniform Statewide Procedures and Best Practices for Conducting Police Use of Force Investigations) ("Directive"). Pursuant to the Directive, the Attorney General's Office conducted an independent review of the use of force and agreed with ECPO's determination that there were no material facts in dispute and that the use of deadly force by Officer 1 in this case was justified. The Attorney General's Office concurred with ECPO's conclusion to forego presentation of this matter to the Grand Jury.

The incident occurred on May 1, 2018, at approximately 9:00 pm, while off-duty Officer 1 was getting his hair cut at Cache Barber Shop located at 480 Orange Street, Newark, New Jersey, and was captured on surveillance cameras positioned both inside and outside the Barber Shop. Officer 1 and the barber were alone in the shop when one male suspect ("Suspect 1") entered and pointed a loaded handgun at the barber. Suspect 1 pulled the trigger, which created a clicking sound, but no projectile discharged from his weapon. The barber then charged at Suspect 1, taking him to the floor. Officer 1 retrieved his off-duty weapon from his waistband and followed behind the barber. A struggle ensued on the floor of the barber shop inside the glass paneled front door. Officer 1 and the barber tried to disarm Suspect 1. Officer 1 fired one (1) round, but Suspect 1 was unharmed and fled outside. After Suspect 1 exited the shop, he walked backward away from the front door and continued to point his gun at Officer 1 through the plate-glass door. Suspect 1 walked out of camera view, but quickly returned and again pointed his weapon through the glass door at Officer 1 who still lay on the floor inside the Barber Shop. Officer 1 discharged his weapon two (2) additional times, striking the suspect once.

Suspect 1 fled the scene of the barber shop on foot and entered the passenger side of his nearby getaway vehicle being driven by Suspect 2. Officer 1 exited the shop and entered the passenger side of a Newark Police vehicle that was being driven by Officer 2. Officer 2 engaged in a motor vehicle pursuit of the suspect vehicle which fled to the area of 1196 McCarter Highway. Suspect 2 was immediately apprehended by Officer 1. Suspect 1 fled the vehicle into the yard of

Colonial Concrete, but was apprehended by Officer 2 after a brief foot pursuit. EMS responded and transported Suspect 1 to the hospital for treatment of non-life threatening injuries. Personnel from the ECPO's Professional Standard Bureau (PSB) and ECPO Crime Scene Unit (CSU) responded and conducted an investigation of both scenes. At the barber shop, two (2) bullet holes were observed in the front door, and three (3) .40 caliber spent shell casings were recovered. Officer 1's weapon was recovered and ballistic analysis revealed the shell casings were consistent with being discharged from Officer 1's weapon. Suspect 1's handgun was recovered at the scene of his apprehension, and upon forensic examination was found to be loaded and operable with one .38 caliber round presenting with a strike mark on the primer of the unfired cartridge. Surveillance footage from the interior and exterior of the barber shop was reviewed, and statements were obtained from civilians, law enforcement personnel, and both suspects. Suspect 1 admitted to entering the barber shop to commit armed robbery, and charges against both Suspects 1 and 2 are currently pending.

Applying the Directive to the undisputed material facts outlined above, the use of deadly force by Officer 1 was justified pursuant to N.J.S.A. 2C:3-4, Use of Force in Self-Protection and N.J.S.A. 2C:3-5, Use of Force in Protection of Other Persons. N.J.S.A. 2C:3-4, Use of Force in Self-Protection, provides that "the use of force upon or toward another person is justifiable when the actor reasonably believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion." Further, N.J.S.A. 2C:3-5 provides that, "the use of force upon or towards the person of another is justifiable to protect a third person when...the actor reasonably believes that his intervention is necessary for the protection of such other person." The law defines a "reasonable belief" as one which would be held by a person of ordinary prudence and intelligence situated as the actor was.

Officer 1 indicated that he was in fear for his life during this encounter with Suspect 1. Officer 1 believed that discharging his weapon was necessary in order to protect himself from being shot by Suspect 1. An independent analysis of the undisputed material facts led to the determination that Officer 1's beliefs were reasonable, and that the use of deadly force in this matter was justified pursuant to all applicable laws and the Attorney General Guidelines. This statement was prepared and disseminated to the public in accordance with §8 of the Directive. PSB# 2018-123